

R E M A R K S

A non-final Office Action was mailed on June 10, 2004. Claims 1-15 are pending in the application and all stand rejected. By the foregoing, claims 1 and 4 are amended, and claims 10, 11, and 13 are cancelled. Claims 1 and 4 are the only independent claims.

Enclosed is a copy of certified Canadian patent application no. 2,450,272, filed November 21, 2003, from which priority is claimed. The examiner is kindly requested to acknowledge receipt of same.

35 U.S.C. §102 issues

Claims 1-15 stand under 35 U.S.C. §102(b) as being anticipated by United States Patents Nos. 4,788,893 to Sutton (Sutton) and 5,337,632 to Thomas et al. (Thomas). More specifically, the Examiner alleges that both Sutton and Thomas teach door opening devices made of metal or plastic and have a hole at one end for a key ring or chain to be attached thereto.

In response to the Examiner's objections, independent claims 1 and 4 are amended and claims 10, 11 and 13 are cancelled.

The Applicant respectfully submits that the cited references fail to teach or disclose all of the essential features of the present invention as now claimed in independent claims 1 and 4.

In order to clarify the distinctions of the present invention from the disclosures of the applied references, and with a view to overcoming the Examiner's rejection, the Applicant offers the following comments.

With respect to United States Patent No. 4,788,893 (Sutton), the Applicant submits that, with reference to Figure 1 of Sutton, the Sutton reference is directed to opening door handles

(with a view to avoiding broken nails and such), and, as such, respectfully cannot be considered as being of a similar nature to the present invention. More specifically, in operation the device disclosed in Sutton is meant to be placed under a door handle and then lifted upwardly so as to assist in opening the door handle. By contrast, the device disclosed in the present invention is meant to be placed between the car door and door frame, and then levered by the user or pulled, so as to engage the lip of the door, in order to break the frozen seal and assist in opening the car door itself, as can be noted with reference to the description on page 7 at lines 11 to 18.

Accordingly, the Applicant submits that Sutton is not of a similar nature to that of the present invention, as the device described therein is designed as a “hook” of plastic construction (see column 2, lines 1 and 19 of Sutton) which is to replace one’s fingertips as the operative force in opening an automobile door. As such, the device disclosed in Sutton would be ill-suited for opening frozen doors, in the manner as indicated by the present invention, as the plastic construction may break as the user attempts to lever the door open.

In addition, with reference to Figure 1 of Sutton, it can also be seen that the width of the device disclosed therein narrows towards the upper end of the body where the key ring aperture is located. However, the present invention, as defined in the amended claims submitted herewith, comprises first and second plate portions having a width that is constant along an entire length of the first and the second plate portions, including the upper end where the key ring aperture is located. This is an essential feature of the present invention, since, by virtue of its having a constant width at the upper end where the key chain is located (and where the user grasps the device), the device has a greater surface area at this point in which a user can use to effect body leverage unto the device to break the frozen seal and assist in prying open the door.

In addition, and with reference to Figure 1 of Sutton, it can be plainly seen that the device described in Sutton does not have two angled portions which are of substantially equal length and which are compact. In Figure 1 of Sutton, the body 2 member is clearly of a longer length

than the hook member which engages the underside of the door handle, and, as such, by virtue of its length, can be somewhat cumbersome when attached to a keychain. By contrast, the present invention, as defined in the amended claims submitted herewith, comprises first and second plate portions which are compact, and of substantially equal length, which reduces the likelihood of the first or second plate portions breaking or separating from each other during use, as can be noted with reference to the description on page 8 at lines 2 to 8. Sutton makes no mention of such a structure. Such a construction also allows for easier, much more convenient attachment to a keychain.

Further, while Sutton is directed to a hook type of car door opening tool, Sutton also clearly indicates, on column 2 at line 55, that the hinge is limited to opening to “approximately 45 degrees”. The Applicant notes that, for the purpose envisioned by the device disclosed in Sutton, this is adequate, because the device described in Sutton is not meant to be biased between the car door frame and the door to lever a frozen door open, it is merely to grasp the underside of a door handle and be lifted upwardly to manipulate the door handle in opening the door.

By contrast, the present invention, as now claimed in independent claims 1 and 4, is directed to a device having a first plate portion in spaced relation to the second plate portion to form a substantially right angle about a central point of from 45 degrees to 85 degrees. By virtue of this manner of construction, when the user inserts the first plate portion for placement in a frame opening between the door frame and the door, and the second plate portion is then pushed in a first direction by the user towards an upper surface of the door frame, the upper surface of the first plate portion engages a lip of the door and, as a result of the angled relationship between the first and second plate portions, the device pivots about the central point, whereby an outer edge of the central point biases within the frame opening, allowing the user to apply moderate leverage to the device and effect the first plate portion to pivot upwardly, about the central point, from the placement between the door frame and the door, and force the car door away from an adjacent relationship with the door frame so as to separate and break the frozen or stiff seal

formed between the door and the door frame.

This is completely absent from the device described in Sutton, and the Applicant respectfully submits that amended independent claims 1 and 4 are distinguishable from the device disclosed in Sutton, and, moreover, would not at all be obvious from anything provided in Sutton. Since the remaining dependent claims ultimately depend from these claims, it follows that these claims are also distinguishable from the cited reference.

Thomas is directed to opening beverage can tops or door handles (with a view to avoiding broken nails and such), and, as such, cannot be considered as being of a similar nature to the present invention, for all of the above reasons given with respect to differentiating the present invention from Sutton. Furthermore, and with reference to Figure 1 of Thomas, it can be plainly seen that the device described in Thomas does not have two angled portions which are of substantially equal length and which are compact. In Figure 1 of Thomas, the tail end 26 is clearly of a longer length than the hook member 22 which engages the underside of the beverage can top or door handle, and, as such, by virtue of its length, can be somewhat cumbersome when attached to a keychain.

By contrast, the present invention, as now claimed, comprises first and second plate portions which are compact, and of substantially equal length, which reduces the likelihood of the first or second plate portions breaking or separating from each other during use, as can be noted with reference to the description on page 8 at lines 2 to 8. Thomas makes no mention of such a structure. Such a construction also allows for easier, much more convenient attachment to a keychain.

Further, Thomas also clearly indicates, on column 3 at line 55, that the hook is “curved away from the handle portion at approximately 180 degrees”. By contrast, the present invention, as defined in the amended claims submitted herewith, is directed to a device having a first plate

portion in spaced relation to the second plate portion to form a substantially right angle about a central point of from 45 degrees to 85 degrees. This is completely absent from the device described in Thomas, and the Applicant respectfully submits that amended independent claims 1 and 4 are distinguishable from the device disclosed in Thomas, and, moreover, would not at all be obvious from anything provided in Thomas. Since the remaining dependent claims ultimately depend from these claims, it follows that these claims are also distinguishable from the cited reference.

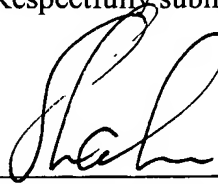
The Applicant respectfully submits that the above arguments are sufficient to distinguish the present invention from the cited prior art, and reconsideration of the matter is accordingly requested.

All dependent claims are patentable over the prior art cited for at least the same reasons as those provided for the independent claims from which the dependent claims depend.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Hassan', is written over a horizontal line.

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